

REMARKS

Claims 1-16 were examined and reported in the Office Action. Claims 1-16 are rejected. Claims 1, 2, 4, 7-9 and 11-16 are amended. Claims 1-16 remain.

Applicant requests reconsideration of the application in view of the following remarks.

I. Claim Objections

It is asserted in the Office Action that claims 4, 7 and 8 are objected to for informalities. Applicant has amended claims 4, 7 and 8 to overcome the informal claim objections.

Accordingly, withdrawal of the claim objections for claims 4, 7 and 8 are respectfully requested.

II. 35 U.S.C. § 101

It is asserted in the Office Action that claim 16 is rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory matter. Applicant has amended claim 16 to overcome the 35 U.S.C. § 101 rejection. No new matter is added.

Accordingly, withdrawal of the 35 U.S.C. § 101 rejection for claim 16 is respectfully requested.

III. 35 U.S.C. § 102(b)

It is asserted in the Office Action that claims 1-5, 7-12 and 14-16 are rejected under 35 U.S.C. § 102(b), as being anticipated by U. S. Patent No. 5,872,769 issued to Caldara et al ("Caldara"). Applicant respectfully traverses the aforementioned rejection for the following reasons.

According to MPEP §2131,

'[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.' (Verdegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). 'The identical invention must be shown in as complete detail as is contained in the ... claim.' (Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)).

The elements must be arranged as required by the claim, but this is not an *ipse dixit* test, *i.e.*, identity of terminology is not required. (*In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990)).

Applicant's amended claim 1 contains the limitations of

[a] multi-functional switch fabric apparatus comprising: a plurality of input data processors including a plurality of unit inlet data processors, which copy, distribute, switch, and output input user data according to a mode set signal from the outside; a switch fabric unit, which includes a plurality of switching units and selectively outputs the user data input from the plurality of input data processors according to the mode set signal; a plurality of output data processors, which buffer, schedule, multiplex, and output the user data input from the switch fabric unit; and a control unit, which outputs the mode set signal to control the plurality of input data processors, the switch fabric unit, and the plurality of output data processors, wherein each unit inlet data processor is coupled to a separate switching unit.

Applicant's amended claim 9 contains the limitations of

[a] control method for a multi-functional switch fabric apparatus, the control method comprising: copying, switching, or distributing input user data to a predetermined path according to a predetermined mode set signal by a plurality of input data processors each including a plurality of unit inlet data processors; buffering, virtual output buffer queuing, scheduling, switching, or de-multiplexing the user data according to the mode set signal by a switch fabric including a plurality of separate switching units; selectively outputting the user data according to the mode set signal by using the plurality of switching units; and buffering, scheduling, or multiplexing and outputting the user data according to the mode set signal.

Applicant's amended claim 16 contains the limitations of

[a] recording medium containing instructions, which, when read by a computer causes the computer to: copy, switch, or distribute input user data into a predetermined path according to a predetermined mode set signal by a plurality of input data processors each including a plurality of unit inlet data processors; buffer, virtual output buffer queue, schedule, switch, or de-multiplex the user data according to the mode set signal by a switch fabric including a plurality of separate switching units;

selectively output the user data according to the mode set signal by using a plurality of switching units; and buffer, schedule, or multiplex and output the user data according to the mode set signal, wherein the computer performs a control method of a multi-functional switch fabric apparatus.

Caldara discloses hierarchical data structures providing multiple levels of control in an asynchronous transfer mode switch. It is asserted in the Office Action that the cross bar switch of Caldara discloses a switch fabric unit, which includes a plurality of switching units. Caldara, however, does not teach, disclose or suggest a plurality of input data processors including a plurality of unit inlet data processors, ...wherein each unit inlet data processor is coupled to a separate switching unit.

Further, Applicant's amended claims recite that the switch fabric includes a plurality of separate switching units. Caldara, however, does not teach, disclose or suggest that the switch includes a plurality of separate switching units.

Therefore, since Caldara does not teach, disclose or suggest all of Applicant's amended claims 1, 9 and 16 limitations, Applicant respectfully asserts that a *prima facie* rejection under 35 U.S.C. § 102(b) has not been adequately set forth relative to Caldara. Thus, Applicant's amended claims 1, 9 and 16 are not anticipated by Caldara. Additionally, the claims that directly or indirectly depend on claims 1 and 9, namely claims 2-5 and 7-8, and 10-12 and 14-15, respectively, are also not anticipated by Caldara for the same reason.

Accordingly, withdrawal of the 35 U.S.C. § 102(b) rejection for claims 1-5, 7-12 and 14-16 is respectfully requested.

IV. 35 U.S.C. § 103(a)

It is asserted in the Office Action that claims 6 and 13 are rejected in the Office Action under 35 U.S.C. § 103(a), as being unpatentable over Caldara in view of U. S. Patent No. 6,240,087 issued to Cummings et al. ("Cummings"). Applicant respectfully traverses the aforementioned rejection for the following reasons.

According to MPEP §2142

[t]o establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. (In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)).

Further, according to MPEP §2143.03, “[t]o establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. (In re Royka, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).” “*All words in a claim must be considered in judging the patentability of that claim against the prior art.*” (In re Wilson, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970), emphasis added.)

Applicant’s claim 6 indirectly depends on amended claim 1. Applicant’s claim 13 indirectly depends on amended claim 9. Applicant has addressed Caldara regarding amended claim 1 and 9 above in section II. As asserted above, Caldara does not teach, disclose or suggest the amended limitations contained in claims 1 and 9.

Cummings is relied on for the limitations of claims 6 and 13, not the base claims (1 and 9, respectively). Therefore, even if Caldara is combined with Cummings, the resulting invention would still not teach, disclose or suggest the limitations of amended claims 1 and 9.

Since neither Caldara, Cummings, and therefore, nor the combination of the two, teach, disclose or suggest all the limitations of Applicant's amended claims 1 and 9, as listed above, Applicant's amended claims 1 and 9 are not obvious over Caldara in view of Cummings since a *prima facie* case of obviousness has not been met under MPEP §2142. Additionally, the claims that indirectly depend from amended claims 1 and 9, namely claims 6, and 13, respectively, would also not be obvious over Caldara in view of Cummings for the same reason.

Accordingly, withdrawal of the 35 U.S.C. § 103(a) rejection for claims 6 and 13 is respectfully requested.

CONCLUSION

In view of the foregoing, it is submitted that claims 1-16 patentably define the subject invention over the cited references of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes a telephone conference would be useful in moving the case forward, he is encouraged to contact the undersigned at (310) 207-3800.

If necessary, the Commissioner is hereby authorized in this, concurrent and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§1.16 or 1.17, particularly, extension of time fees.

Respectfully submitted,

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CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being submitted electronically via EFS Web on the date shown below to the United States Patent and Trademark Office.


Jean Svoboda

Date: June 15, 2007